

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

1. OA No. 2314/97
2. OA No. 2251/97
3. OA No. 2252/97
4. OA No. 2258/97
5. OA No. 2446/97
6. OA No. 2265/97
7. OA No. 2316/97

(3)

New Delhi this the 24th September, 1998.

Hon'ble Shri N. Sahu, Member (A)
Hon'ble Dr. A. Vedavalli, Member (J)

1. OA No. 2314/97

1. Kamlesh Kumar S/o Sh. Charan Singh
2. Hari Singh, S/o Shri Kishan Lal
3. Rakesh Kumar S/o Shri Charan Singh
4. Abdul Mazid S/o Sh. Mohammad Safi
5. Altaf S/o Sh. Abdul Mazid
6. Mahmood Ali S/o Sh. Mohammad Ajmeri
7. Vakar Ali S/o Sh. Nanay Kha,
8. Bijender Singh S/o Sh. Charan Singh
9. Jitender Kumar S/o Sh. Charan Singh
10. Gandhar S/o Sh. Rameshwär Dayal
11. Sanjeev Kumar S/o Shri Charan Singh

....Applicants

Versus

1. Union of India through
The Secretary,
Ministry of Railway,
Rail Bhawan, New Delhi
2. The General Manager,
Northern Railway, Baroda House,
New Delhi.
3. The Divisional Railway Manager,
Northern Railway, Allahabad
Division, Allahabad (U.P.)
4. The Secretary,
Railway Sahkari Shram Samvida Samiti Ltd.
Hata Asgari Ganj Main Road,
Tundla (UP)

....Respondents

2. O.A. No. 2251/97

1. Mani Ram S/o Sh. Khaniya Lal
2. Sadhu Ram S/o Shri Nanak Chand
3. Banwari Lal S/o Shri Khaniya Lal
4. Raj Kumar S/o Shri Net Ram
5. Hari Singh S/o Shri Ghinya Ram
6. Harbindedr Singh S/o Shri Harcharan Singh
7. Balbir Singh S/o Shri Nidhu Ram
8. Budh Ram alias Kuki S/o Shri Manohar Lal
9. Hari Kishan S/o Shri Chandgi Ram
10. Midhu Ram S/o Shri Gugan Ram

11. Naresh Kumar S/o Shri Harphool Singh
12. SURESH KUMAR S/o Shri Sultan SinghApplicants

Versus

1. Union of India through
The Secretary,
Ministry of Railway,
Rail Bhawan, New Delhi
2. The General Manager,
Northern Railway, Baroda House,
New Delhi.
3. The Divisional Railway Manager,
Northern Railway, Bikaner
Division, Bikaner (Raj)
4. The Secretary,
Parcel Porters Society
through C.P.S.,
Parcel Office, N.Rly
Rewari (Hqr)

....Respondents

3. O.A. No. 2252/97

1. Mohammad Sultan S/o Sh. Rasul Baksh
2. Banwari Lal S/o Sh. Jagdish Parshad
3. Shan Mohammad S/o Sh. Noor Mohammad
4. Devinder Singh S/o Sh. Mohammad Sabir
5. Iqbal Hussain S/o Sh. Jagdish Parshad
6. Mahesh Kumar S/o Sh. Noor Mohammad
7. Taj Mohammad S/o Sh. Mohammad Yakub
8. Alisher S/o Sh. Mohammad Yakub
9. Rajan Singh S/o Sh. Ramji Lal
10. Suresh Chand S/o Sh. Sant Lal
11. Santosh Kumar S/o Sh. Babu Ram
12. Shiv Shankar S/o Sh. Ram Partap
13. Ram Pal Singh S/o Sh. Dalbir Singh
14. Sheopal Singh S/o Sh. Dogi Ram
15. Virender Singh S/o Sh. Roop Lal

....Applicants

Versus

1. Union of India through
The Secretary,
Ministry of Railway,
Rail Bhawan, New Delhi
2. The General Manager,
Northern Railway, Baroda House,
New Delhi.
3. The Divisional Railway Manager,
Northern Railway, Bikaner
Division, Bikaner (Rajasthan)
4. The Secretary,
Railway Sankari Shram Samvida Samiti Ltd.
Hata Asgari Ganj Main Road,
Tundla (UP)

....Respondents

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4.O.A. No. 2258/97

1. Budh Ram S/o Sh. Banwari Lal
2. Partap S/o Sh. Mohar Singh
3. Bhanwar Lal S/o Sh. Roop Ram
4. Bhanwar Lal S/o Sh. Maidhan Ram
5. Ghisa Ram S/o Sh. Mala Ram
6. Budh Ram S/o Sh. Laxman Ram
7. Raj Kumar S/o Sh. Kirpa Ram
8. Alamer S/o Sh. Faridkhan
9. Sant Lal S/o Sh. Malu Ram
10. Gokal Ram S/o Sh. Banwari Lal
11. Data Ram S/o Sh. Mohar Singh
12. Arjun Singh S/o Sh. Kalu Ram
13. Jagmal Singh S/o Sh. Bhanwar Singh
14. Makbul S/o Sh. Alisher
15. Mohammad Hanif S/o Sh. Mohammad Yakub
16. Yakub Ali S/o Sh. Alisher

....Applicants

Versus

1. Union of India through
The Secretary,
Ministry of Railway,
Rail Bhawan, New Delhi
2. The General Manager,
Northern Railway, Baroda House,
New Delhi.
3. The Divisional Railway Manager,
Northern Railway, Bikaner
Division, Bikaner (Raj)
4. The Secretary,
Limited Co-operative Society,
Rupam Hotel, Bikaner (Raj),

....Respondents

5. OA No. 2446/97

1. Harvilas S/o Sh. Gulab Chand
2. Jitender Kumar alias Jitu
S/o Sh. Harvilas
3. Jai Kishan S/o Sh. Kishan Lal
4. Kishori Lal S/o Sh. Mewa Ram
5. Tulsi Ram S/o Sh. Kamwasi Ram
6. Balak Ram S/o Sh. Than Singh
7. Rajinder Singh S/o Sh. Daulat Ram
8. Hari Singh S/o Sh. Daulat Ram
9. Ram Bharosi S/o Sh. Ram Swarup
10. Amar Singh S/o Sh. Ram Swarup
11. Rajinder Singh S/o Sh. Moti Lal
12. Megh Singh S/o Sh. Diwan Singh

....Applicants

Versus

1. Union of India through
The Secretary,
Ministry of Railway,
Rail Bhawan, New Delhi

2. The General Manager,
Northern Railway, Baroda House,
New Delhi.

3. The Divisional Railway Manager,
Northern Railway, Allahabad
Division, Allahabad (U.P.)

4. The Secretary,
Railway Sahkari Shram Samvida Samiti Ltd.
Hata Asgari Ganj Main Road,
Tundla (UP) Respondents

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6.O.A. No. 2265/97

1. Ram Pal S/o Sh. Bhagwat Singh
2. Rajinder S/o Sh. Ram Kumar Singh
3. Ranbir S/o Sh. Molad Singh
4. Ghisa S/o Sh. Baru
5. Parbhu Dayal S/o Sh. Budh Ram
6. Sushil Kumar S/o Sh. Bishanbar Dayal
7. Sunil Kumar S/o Sh. Paley Ram
8. Ramotar S/o Sh. Niranjan Singh
9. Vijay Kumar S/o Sh. Mange Ram
10. Biloo Ram S/o Sh. Fulia Ram
11. Azad Singh S/o Sh. Fulia Ram
12. Ram Bhagat S/o Sh. Mange Ram
13. Balwan S/o Sh. Dhani Ram
14. Bajrang S/o Sh. Rati Ram
15. Bharat Singh S/o Sh. Lili Ram
16. Ram Singh S/o Sh. Adu Singh
17. Puran Singh S/o Sh. Girdhari Lal Applicants

VERSUS

1. Union of India through
The Secretary,
Ministry of Railway,
Rail Bhawan, New Delhi

2. The General Manager,
Northern Railway, Baroda House,
New Delhi.

3. The Divisional Railway Manager,
Northern Railway,
Division

4. The Secretary,
Parcel Porters Society,
through Chief Parcel Supdt.
N. Rly, Rewari (Hqr) Respondents

7.O.A. No. 2316/97

1. Naresh Kumar S/o Sh. Roopchand
2. Ram Singh S/o Sh. Nathu Ram
3. Puran S/o Sh. Bhura Ram
4. Kundan S/o Sh. Beg Raj
5. Chander Bhan S/o Sh. Dulli Chand,
6. Billu S/o Sh. Sri Chand
7. Mumtaj Kha S/o Sh. Sulaman Kha
8. Babu Kha S/o Sh. Sulaman Kha
9. Sawai Singh S/o Sh. Sankar Singh

(A)

10. Babu Singh S/o Sh. Sankar Singh
11. Naarang Lal Saini S/o Sh. Govind Ram
12. Madan Lal S/o Sh. Suraj Bhan Applicants

Versus

1. Union of India through
The Secretary,
Ministry of Railway,
Rail Bhawan, New Delhi
2. The General Manager,
Northern Railway, Baroda House,
New Delhi.
3. The Divisional Railway Manager,
Northern Railway,
Division.
4. The Secretary,
Limited Co-operative Society,
Rupam Hotel, Bikaner (Raj).

.... Respondents

ORDER (Oral)

By Hon'ble Shri N. Sahu, Member (A)

Heard Shri Yogesh Sharma counsel for the applicant and Shri D.S. Mahendru, learned proxy counsel for Shri P.S. Mahendru, for the respondents.

2. The reliefs prayed for in these O.A.s are materially similar. We would however extract the reliefs prayed for in OA2314/97 as under:-

a) That the Hon'ble Tribunal may graciously be pleased to pass an order directing the respondents to extend the same benefits to the applicants here in as has been given by the Hon'ble Supreme Court in Writ Petition No. 277/88 vide judgement dated 15.4.1991 and writ petition No. 277/88 vide judgement dated 15.4.1991 and writ petition No. 507/92 vide judgement dated 9.5.95 which were filed by the colleagues of the petitioners/applicants where in the Hon'ble Supreme Court after enquiries held by the Labour Commissioner declared that the colleagues of the applicants are regular employees of the Railways.

(b)

b) That the Hon'ble Tribunal may further graciously be pleased to pass an order commanding the respondents to treat the applicants as employees of Northern Railway and give them the same benefits which have been granted to other regular parcel porters working at different railway stations of Northern Railway.

c) That the Hon'ble Tribunal may further graciously be pleased to pass an order directing the respondents to stop treating the applicants as contract labours at railway stations of Northern Railway, who are working as parcel porters for loading and unloading of parcels as this work done by the petitioners is of permanent and perennial nature.

d) Any other relief which the Hon'ble Tribunal deem fit and proper may also be granted to the applicants.

3. Learned counsel for the applicants submitted that the dispute is no longer res-integra and by now we have an authority in the decisions of the Hon'ble Supreme Court alongwith the decisions of other co-ordinate Benches of this Tribunal. We notice that in these cases the MAs are filed for joining of the applicants together. As the applicants have a common cause, we order joining of the applicants in each of the OAs.

4. Applicants seek a direction to consider the cases for absorption as Railway Parcel Porters in the light of the decision of the Hon'ble Supreme Court dated 9.5.95 and 8.7.96. We will take the facts of OA 2314/97 as an illustration. The applicants are Parcel Porters working at several Railway Stations in Allahabad Division of Northern Railway. Subject to certain conditions, they claim that they are entitled to be treated as employees of Indian Railways. These applicants have been appointed

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on different dates. The applicants are treated as Contract Labour as they have been engaged for loading and unloading of parcel goods through the contractor societies. They claim that they are discharging work of a permanent and perennial nature as they have been functioning since a long period. In the contract forms it has been clearly provided that the Railways are the principal employees. They are working for the last two decades. All the facilities to enable the petitioners to discharge their loading, unloading duties as porters are provided by the Railways.

5. Inspite of several opportunities counter has not been filed. I have heard the learned counsel for the respondents Shri D.S. Mahendru. He re-iterated the submissions made in the O.A. 1227/97 and OA 343/97 disposed of on 16.12.97 and 23.2.98 respectively. The Principal Bench in OA 622/97 and 1227/97 reiterated the directions given by the Hon'ble Supreme Court and declared that these directions will also be applicable on a mutatis- mutandis basis. There may be minor variations from case to case. Some of them worked under a single contractor and others worked under different contractors. These minor variation of fact do not alter the enforceability of directions of the Hon'ble Supreme Court. In National Federation case (supra) the Chief Marketing Managers' report to the Apex Court states as under:

"(1) In order to comply with the Hon'ble Supreme Court's Judgement that the Railway should absorb persons supplied by the societies to work as labourers for parcel handling, to the extent that posts which are of perennial and permanent nature can be justified, and to absorb persons as per their length of working as such parcel handling labour, it is recommended that Lucknow, Allahabad, Bikaner and Jodhpur divisions should be asked to fall in line with the action taken at Moradabad Division, that is, to:

(a) Conduct a survey of

still being done by such labour and arrive at the number of posts required on a permanent and perennial basis, and

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(b) Screen all such eligible labourers as per the guidelines of Hon'ble Supreme Court and as per the Railway Rules and absorb them to the extent that posts as justified.

ii) The case one person who is working at Lucknow Jn. of N.E. Rly. made be referred to General Manager N.E. Rly., for necessary action."

Para 6 of the order in National Federation's case, w.p. No. 507 of 1992 decided on 9.5.1995 issued eight directions:

"(1) That the unit of the Railway Administration having control over the Railway Stations where the petitioners in the present writ petitions are doing the work of Railway Parcel Porters on contract Labour should be absorbed permanently as regular Railway Parcel Porters of those stations, the number to be so appointed being limited to the quantum of work which may become available to them on a perennial basis.

(2) When the petitioners in the writ petitions or any of them are appointed as Railway Parcel Porters on permanent basis, they shall be entitled to get from the date of their absorption the minimum scale of pay or wages and other service benefits which the regularly appointed Railway Parcel Porters are already getting.

(3) The Units of railway Administration may absorb on permanent basis only such of those Railway Parcel Porters (Petitioners) working in the concerned Railway Stations on contract labour who have not completed the superannuation age of 58 years.

(4) The Units of Railway Administration are not required to absorb on permanent basis such of the contract labour Railway Parcel Porters (Petitioners) who are not found medically fit for such employment.

(5) That the absorption of the petitioners in the writ petitions on a regular and permanent basis by the

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Railway Administration as Railway Parcel Porters does not disable the Railway Administration from utilising their services for any other manual work of the Railway depending upon its needs.

(6) In the matter of absorption of Railway Parcel Porters on contract labour as permanent and regular Railway Parcel Porters, the persons who have worked for longer periods as contract labour shall be preferred to those who put in shorter period of work.

(7) The report dated August 31, 1993 of the Assistant Labour Commissioner (Central) can be made the basis in deciding period of contract labour work done by them in the Railway Stations. Further, as far as possible, the Railway Stations where the writ petitioners are working should be the places where they could be absorbed on permanent and regular basis and the information available in this regard in the report dated August 31, 1993 of the Assistant Labour Commissioner, could be utilised for the purpose.

(8) The absorption and regularisation of the petitioners in the writ petitions, who could be appointed as permanent Railway Parcel Porters shall be done according to the terms indicated above and on such other terms to which they may be subjected to according to the rules or circular of the Railway Board as expeditiously as possible, not being later than six months from today, those who have put in long periods of work as Railway Parcel Porters on contract labour getting preference in the matter of earlier appointment".

6. We would, therefore, direct the respondents to consider the claim of the applicants for treating them as employees of the Northern Railway alongwith other reliefs and give the same benefit which have been granted to other regular parcel porters working at different Railway Station of Northern Railway in the light of the guidelines and directions given by the Hon'ble Supreme Court extracted above. Respondent No. 2 & 3 are hereby directed to consider the request of the applicants in these OAs within a period of 20 weeks from the date of receipt of a copy of this order.

If they find that any particular factor or fact in the case of each of these applicants is not in conformity with the ratio laid down by the Hon'ble Apex Court, they shall say so and before deciding they shall invite the applicants either commonly or through their representatives and convey to them the basis of their ineligibility before passing the orders. These are lowly paid and have been knocking the doors of the Tribunal since long. Respondents have not shown any interest in the matter. They have not even filed a counter. In these OAs respondent 2 & 3 shall ensure that the claims of the applicants are properly adjudicated in the light of the decisions of the Hon'ble Supreme Court and the co-ordinate Benches of this Tribunal referred to above and shall ensure that a satisfactory solution is spelt out and conveyed to them within the time limit framed by us above.

7. O.As are disposed of. No costs.

(Dr. A. vedavalli)
Member (J)

(N. Sahu)
Member (A)

/cc/

Ambedkar
Jhansi
26/9/98
(संजीव कुमार)
(SANJEEV KUMAR)
वरिष्ठ निजी सहायक/S
केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal
प्रधान न्यायपीठ, फरीदकोट हाउस
Principal Bench, Faridkot House
नई दिल्ली/New Delhi-110001